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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 TYRONE WALLACE, P-48941,  
13  
14 Plaintiff,

15 v.

16 CCII OLIVARRIA; CCII B. SELF;  
17 CIO R. ARMENDARIZ; LT. J.  
18 MCNEIL; D. ARGUILEZ,  
19 Defendants.  
20

Case No. 16-cv-1808-BAS-PCL

**ORDER DENYING PLAINTIFF'S  
MOTION FOR  
RECONSIDERATION**

21 Presently before the Court is Plaintiff Tyrone Wallace's motion for  
22 reconsideration of this Court's August 2, 2016 Order. (ECF No. 6.) In that Order, the  
23 Court dismissed without prejudice Plaintiff's civil rights complaint brought under 42  
24 U.S.C. § 1983 because Plaintiff failed to pay the required filing fee or request to  
25 proceed *in forma pauperis*. (ECF No. 4.) Plaintiff moves for reconsideration of that  
26 Order on the grounds that he is still waiting for the relevant prison officials to provide  
27 him his certified trust account statement. (ECF No. 6, 2:3–20.)


28 Reconsideration is an extraordinary remedy available only under exceptional

1 circumstances. *See Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir.  
2 2000); *Engleson v. Burlington N.R. Co.*, 972 F.2d 1038, 1044 (9th Cir.1994). In this  
3 case, reconsideration is unnecessary because the Court dismissed the case *without*  
4 *prejudice*—Plaintiff may refile his claims whenever he is ready to either (1) pay the  
5 required filing fee or (2) request to proceed *in forma pauperis*. In addition, when  
6 Plaintiff does refile his complaint, he can at that time correct or add claims as he  
7 apparently would like to do. Finally, to the extent Plaintiff is requesting  
8 reconsideration of the Court’s denial of Plaintiff’s motion to appoint counsel, this too  
9 is inappropriate. The Court denied Plaintiff’s motion to appoint counsel as moot  
10 because Plaintiff had not commenced the action by paying the required filing fee or  
11 requesting to proceed *in forma pauperis*. Once Plaintiff has properly commenced the  
12 litigation, he can consider whether he wants to again bring a motion to appoint  
13 counsel.

14 For these reasons, the Court DENIES Plaintiff’s motion for reconsideration.  
15 (ECF No. 6.)

16 **IT IS SO ORDERED.**

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18 **DATED: August 11, 2016**

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20 **Hon. Cynthia Bashant**  
21 **United States District Judge**  
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